

REMARKS

Applicant has carefully reviewed the Application in light of the Advisory Action mailed March 8, 2005. At the time of the Advisory Action, Claims 1-33 were pending in the Application. Applicant respectfully requests reconsideration of the pending claims and favorable action in this case.

Section 103 Rejections

The Examiner continues to reject Claims 1-4, 6-7, 9-12, 14-15, 17-20, 22-23, 25-28, 30-31, and 33 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,119,014 issued to Alperovich et al. (hereinafter “*Alperovich*”) in view of U.S. Patent No. 5,705,995 issued to Laflin et al. (hereinafter “*Laflin*”). The Examiner also rejects Claims 8, 16, 24, and 32 under 35 U.S.C. §103(a) as being unpatentable over *Alperovich* in view *Laflin* as applied to Claims 1, 9, 17, and 25 above, and further in view of U.S. Publication No. 2001/0041571 A1 issued to Yuan (hereinafter “*Yuan*”). These rejections are respectfully traversed for the following reasons.

Applicant respectfully notes that the Examiner has failed to satisfy each of the elements of non-obviousness, which are required to support a proper §103 analysis. According to MPEP §2143, to establish a prima facie case of obviousness, three criteria must be met. First, there must be some suggestion or motivation to combine the references. Second, there must be a reasonable expectation of success. Third, the prior art combination of references must teach or suggest all the claim limitations. (See generally MPEP §2143.) As an initial matter, the Examiner has failed to meet his burden with respect to the third criteria of non-obviousness, as none of the references cited by the Examiner discloses all of the limitations of the pending claims.

Alperovich fails to disclose any system associated with “*analyzing* the message to determine if it contains pushed data, wherein the pushed data reflects a server initiated data transfer that is based on predetermined criteria” and then “*determining*, if the message contains pushed data, whether the data is appropriate for a session currently being hosted by the mobile unit” and further “*posting* the data to the session if the data is appropriate for the session” as is recited by Independent Claim 1. These steps are indelibly linked together. For example, if a given reference fails to disclose “pushed data” (such as is the case with

Alperovich), then there could not be any system that can *analyze* if the message contains pushed data or *determine* whether the [pushed] data is appropriate for the session.

For virtually all of the above-identified limitations, the Examiner relies on *Alperovich*. The portions of *Alperovich* cited by the Examiner fail to anticipate these elements. Referring now to *Laflin*, this reference discloses a dumb device, which merely receives a message and stores the message by category (or sub-category). (See Abstract of *Laflin*.) After the message is categorized, *Laflin* is unable to post the data to the session if the data is appropriate for the session, as is recited in Independent Claim 1. The Examiner offers *Laflin* for the missing “pushed data” element, which is missing from *Alperovich*. But *Alperovich* fails to teach the above-identified limitations and, thus, is inherently flawed in its own respect. Moreover, there is nothing in *Yuan* that offers this missing disclosure, nor is there anything in *Alperovich* that is combinable with *Laflin* or *Yuan* that would inhibit the patentability of Independent Claim 1. Indeed, evaluating these references more closely reveals that *Yuan* and *Laflin* do not provide any subject matter relevant to the patentability of the pending claims, as both *Yuan* and *Laflin* fail to offer a teaching, a suggestion, or a disclosure associated with the above-identified limitation.

For at least these reasons, Independent Claim 1 is allowable over the *Alperovich-Laflin* and the *Alperovich-Laflin-Yuan* combinations. In addition, Independent Claims 9, 17, 25, and 33 include a limitation that is similar, but not identical, to that of Independent Claim 1. Accordingly, these Independent Claims are also allowable over the proffered combinations. Additionally, the dependent claims corresponding to these Independent Claims are also allowable for analogous reasons.

Thus, all of the pending claims have been shown to be allowable, as they are patentable over the references of record. Notice to this effect is respectfully requested in the form of a full allowance of these pending claims.

CONCLUSION

Applicant has now made an earnest attempt to place this case in condition for immediate allowance. For the foregoing reasons and for all other reasons clear and apparent, Applicant respectfully requests reconsideration and allowance of the pending claims.

Applicant submits herewith a check in the amount of \$790.00 to satisfy the request for continued examination fee of 37 C.F.R. §1.17(e). If this is not correct, the Commissioner is hereby authorized to charge any fees or credit any overpayment to Deposit Account No. 02-0384 of Baker Botts, L.L.P.

If there are matters that can be discussed by telephone to advance prosecution of this application, Applicant invites the Examiner to contact Thomas Frame at 214.953.6675.

Respectfully submitted,
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